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SECOND UNITED NATIONS CONFERENCE TO REVIEW ALL ASPECTS
OF THE SET OF MULTILATERALLY AGREED EQUITABLE
PRINCIPLES AND RULES FOR THE CONTROL OF
RESTRICTIVE BUSINESS PRACTICES
Geneva, 26 November 1990
Agenda item 11

DRAFT REPORT OF THE SECOND UNITED NATIONS CONFERENCE TO REVIEW ALL ASPECTS OF THE SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES

Held at the Palais des Nations, Geneva,
from 26 November to 7 December 1990

Rapporteur: Mr. Walid Mahmoud Abdel-Nasser (Egypt)

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Chapter I

REVIEW OF ALL ASPECTS OF THE SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES:

(a) REVIEW OF TEN YEARS OF APPLICATION AND IMPLEMENTATION OF THE SET;

(b) CONSIDERATION OF PROPOSALS FOR THE IMPROVEMENT AND FURTHER DEVELOPMENT OF THE SET, INCLUDING INTERNATIONAL CO-OPERATION IN THE FIELD OF CONTROL OF RESTRICTIVE BUSINESS PRACTICES

(Agenda item 8)

[Continued]

68. The spokesman for Group B (Netherlands), referring in particular to item 8 (a), stated that events since adoption of the Set, and particularly those of the last several years, had demonstrated repeatedly the value of the principled consensus embodied in the Set, as governments in all groups had recognized the vital importance of competition and market forces as the best foundation of economic prosperity and development. As indicated by the Secretary-General in his opening address, State after State had turned from government regulation - and, in some States, management - of the economy to regulatory reform, including deregulation and the privatization and demonopolization of State-owned enterprises, in order to provide a more efficient economic structure. States were achieving these goals by making better use of market signals and promoting entrepreneurial initiative and optimizing the contributions to consumer welfare of the public and private sectors.

69. As these reforms occurred, States had also recognized that the competition policy principles of the Set were vital to the development and maintenance of the competitive markets that the reforms were meant to create. More and more States in all groups had come to understand that sound competition laws and effective and vigorous enforcement of those laws were tools that governments must use to ensure that markets became and remained competitive.

70. It had been noted on many occasions that States members of Group B had adopted or improved their RBP legislation in conformity with the spirit of the Set. There was no need to repeat the details of those actions. Also, his Group's discussion of the implementation of the Set during the ninth session

of the Intergovernmental Group of Experts were to be found in paragraphs 18-21 and 39-45 of the report of that session. Moreover, it was especially encouraging to note that an increasing number of developing and Eastern European countries were following the Set's principles in developing their own RBP legislation. Indeed, the number of countries that had adopted and were enforcing RBP laws in conformity with the Set had grown immensely over the past 10 years.

71. Of course, as the Set emphasized, RBP control was an ongoing process. One could not simply enact RBP control legislation and expect RBPs to disappear. All States had adopted criminal laws, yet crime still existed. This did not mean that the criminal codes had failed. On the contrary, as many Group B countries had discovered, the details of RBP control laws and techniques not only must be vigorously enforced, but also must be re-evaluated from time to time in order to deal with changing economic conditions. In this context, Group B considered that, in one respect, some provisions of the Set could be put to better use. In 1980, Group B had hoped that one of the results of establishing the Intergovernmental Group would be to initiate regular exchanges of views on substantive competition policy issues among the RBP experts of the States members of UNCTAD. While in the course of time the usefulness of such exchanges had been gradually recognized, the amount of time devoted to disputes over the wording of concluding documents at sessions of the Group was not commensurate with the functions of an expert group. For this reason, on this tenth anniversary of the Set, Group B wished to reaffirm its strong belief in the value of the substantive competition principles embodied in the Set, which had stood the test of time better than could have been imagined in 1980.

72. Group B did not therefore believe that the Set needed improvement, but rather that it needed to be effectively implemented. It was somewhat disappointing to find that, while criticisms were levelled that the Set's provisions were inadequate, and that increasing resort was allegedly being made to RBPs, such little use was being made of the Set's provisions. As had been demonstrated in some of the country statements that discussed the difficulties countries were facing in enforcing new RBP legislation, the Conference efforts would be better directed towards enhancing the impact of the Set. Group B would propose in this regard that the Intergovernmental Group mechanism itself should be strengthened, not by changing it into a politically-oriented Special Committee - as some groups had again proposed -

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but by improving the informal multilateral consultations mechanism to ensure that the experts attending the Intergovernmental Group meetings had a meaningful opportunity to discuss the practical implementation of the RBP control principles set forth in the Set. Such a result would be a fitting way to commemorate the tenth anniversary of the Set and would go far toward ensuring the Set's continued utility to members of all regional groups. Group B would at a later stage suggest topics to be discussed in the informal multilateral consultations to be held at the tenth session of the Group.

73. Finally, the increasing appreciation of the importance of RBP control had increased the demand for technical assistance in this area. As TD/RBP/CONF.3/4 demonstrated, Group B members had provided a significant and increasing amount of such assistance over the past 10 years, on both a bilateral and multilateral basis. Group B considered this to be a particularly valuable contribution of the Set and would continue to provide technical assistance in the years to come.

74. The representative of the Union of Soviet Socialist Republics said that the use of restricted business practices on world markets was damaging for all countries, and efforts to eliminate RBPs must therefore involve the international community as a whole.

75. With regard to the implementation of the Set of Principles and Rules, the results achieved were uneven. Several of the basic goals of the Set had not been attained, and RBPs continued to be widely used. Several States were consciously disregarding RBPs, and this practice replaced official protectionism. One area in particular where the provisions of the Set had not been satisfactorily implemented concerned transparency. With regard to national legislation, progress had been made, but national legislation on its own was not enough and must be combined with active international co-operation. Finally, with regard to implementation, the lack of effectiveness of the Set resulted not from the inadequacy of the Set's provisions but from the inadequate use of those provisions. What was needed was political will on the part of all concerned, and the Soviet Union was ready to show such will.

76. The Soviet Union's approach to the Set had changed. Previously, most of the country's foreign trade had been based on intergovernmental agreements, which did not fall within the scope of the Set. Now, however, all enterprises were entitled to engage in foreign trade in their own right, and the "new participants" in trade already accounted for almost 10 per cent of foreign

trade. The enterprises concerned must be covered by the Set, and the Soviet Union would henceforth be taking an active interest in the implementation of the Set's provisions.

77. The second factor underlying the change in the Soviet Union's approach to the Set concerned the move towards a market economy and free competition in the country. In that connection, measures were being taken to demonopolize the national economy and to provide legal protection for producers and consumers. An Anti-monopoly Committee would be set up under the Council of Ministers of the USSR, and similar bodies would be set up in the union republics (in Russia such a Committee had already been set up).

78. Demonopolization measures were also being introduced in the field of foreign trade, and these measures took extensive account of the provisions of the Set. Such measures would include removing State foreign trade combines from the direct tutelage of ministries and turning them into joint-stock companies, ensuring equal economic conditions for all exporters, setting up voluntary anti-monopoly associations in the field of foreign trade, and introducing a nation-wide system of foreign trade information. In March 1989, a decision had been taken on the use of penalties against exporters or importers found to have engaged in unfair competition or restrictive business practices. The penalties included prohibition to carry out a specific contract or to engage in foreign trade for a specified period, and such penalties had already been applied in a number of cases.

79. The Soviet Union would be supplying the UNCTAD secretariat with information on national legislation in force or under preparation as soon as possible. However, the existing national legislation was still poorly developed, and the Soviet Union would be extremely interested in technical assistance in that respect. For its part, the Soviet Union participated in technical assistance projects for developing countries to the extent its resources allowed. For example, a seminar for Asian experts was to be held in Moscow in 1991. His country would be submitting requests for technical assistance to the UNCTAD secretariat in the near future.

80. With regard to agenda item 8 (b), his delegation considered that it would not be wise to revise the text of the Set at the present time, although it remained flexible on the question of change at a later time. What was most important was to concentrate on resolving the practical problems of implementing the Set as it was, particularly with regard to transparency and intergovermental consultation procedures.

81. With regard to transparency, one of the most important issues was to establish a multilateral mechanism for the exchange of RBP information. His delegation basically agreed with the suggestions made by the UNCTAD secretariat in that connection, but more was needed, and the developing countries' suggestion concerning access for all interested parties to existing national RBP registers deserved serious consideration. This could pave the way towards a centralized register in UNCTAD, though the financial implications of such a project would have to be examined. With regard to intergovernmental consultations, his delegation supported the UNCTAD secretariat's suggestion concerning the consultation request procedure and a regularly updated list of national RBP control bodies. However, his delegation doubted whether the secretariat's suggestion not to determine a definite procedure for intergovernmental consultations was correct. Efforts must be made to develop a procedure for intergovernmental consultations that would ensure equality for all parties and would not turn consultations into arbitrational investigations.

82. With regard to technical assistance, it must be emphasized that such assistance must be provided to all States and not just a limited number of countries. Finally, his country was ready to support the proposal to turn the Intergovernmental Group of Experts into a main committee and to hold a regular review conference in 1995, if the necessary financial resources were available.

83. The representative of India supported the statement made on behalf of the Group of 77. He said that since adoption of the Set, the developing countries had gone through what had been widely described as a "lost decade of development", with economic stagnation or decline characterizing most of them. The world had also seen increased internationalization of production in agriculture, industry and services, a greater role for transnational enterprises in the international allocation of economic resources, scientific and technological capacities and associated benefits, the trend towards deregulation in developed countries, the efforts towards liberalization and greater use of market mechanisms and free trade in East European and developing countries, not to mention the attempts in the Uruguay Round of MTNs to halt and reverse protectionism and liberalize world trade. These changes, however, did not in any way render the Set less relevant than it had been in 1980. In fact, they reinforced the raison d'être of the Set and underlined the urgent need to implement it in letter and spirit.

84. The increased relevance of the Set on RBP control also arose from its two fundamental objectives. The first objective related to the development dimension of RBP control. There was recognition in the Set that RBPs were to be controlled not only because of the price/quality consideration inherent in competition and efficiency, but still more because these practices adversely affected the economic development of developing countries. The Set also provided that to ensure the equitable application of the Set, States - particularly developed countries - should take into account in their control of RBPs the development, financial and trade needs of developing countries. If the 1990s had to be a decade of development in contrast to the 1980s, the development dimension of RBP control must be reiterated and this Conference should reaffirm its determination to control RBPs with a view to minimizing or eliminating the adverse impact of such practices on the trade and development of developing countries.

85. Another fundamental objective of the Set, was to promote genuine competition and to uphold the democracy and what had been aptly referred to in many developed market economies as the "integrity" of the market. Deregulation and liberalization of the market, both domestic and international, implied that steps must be taken to prevent distortions of the markets which would have not only anti-competitive but also anti-welfare effects. If East European and developing countries for example were frustrated in their quest for self-sustaining growth and development because of the distortions of the market brought about by the use of RBPs by developed-country enterprises, this could lead to total disillusionment with the free market approach. This meant that in the domestic context it had to be ensured that "market élites" did not indulge in the concentration of capital, or in abuse or acquisition of dominant position of market power with adverse effects on the smaller operators in the market, on the consumers and on social welfare in general. In the international context, as the Secretary-General of UNCTAD had pointed out, RBP control would have to ensure that firms of developing countries were actually enabled to compete on an equitable basis with developed-country enterprises.

86. Developing countries must of course enact national legislation, as well as identify and activate national focal points, to detect and take action against RBPs used by foreign enterprises in their markets. The responsibility of developed countries, however, was even greater. Their transnational enterprises had global reach and the capacity to manipulate and dominate as

part of their corporate strategy not only the domestic markets of developing countries but also the terms and conditions under which these countries engaged in international trade and sought accelerated development. Hence, the developed countries' plea of lack of government control over their enterprises in an era of deregulation and of extra-territoriality of the actions and misdemeanours of their enterprises in developing countries was not admissible. Deregulation, as had been admitted by developed countries themselves, presented a fresh case for stringent RBP control and greater discipline on private operators, whether operating within the country or abroad. Also, as was well known, extra-territoriality had not prevented developed-country governments from imposing restraints on their TNCs operating outside their territory when they considered it necessary in their own national interest. This could, therefore, act in the interest of democracy of the market, if not for the benefit of developing countries. Also, there was no justification for RBP control being sacrificed at the altar of global trade competitiveness and of governments deliberately turning a blind eye or even encouraging or colluding with national enterprises in their use of RBPs in the international trade.

87. An important objective of the Set was to ensure that RBPs did not impede or negate the realization of benefits that could arise from the liberalization of tariff and non-tariff barriers affecting world trade, particularly those affecting the trade and development of developing countries. If Governmental tariff and non-tariff barriers disappeared even partially as a result of the Uruguay Round, subtle and therefore more insidious non-governmental trade barriers would remain and might even intensify. Governments must therefore cast their vote for genuine trade liberalization by making a firm commitment to discipline the use of RBPs in international trade by their enterprises. Any liberalization of governmental trade measures must go hand-in-hand with strengthening international disciplines on RBP control.

88. Outlining the kind of RBPs that had been encountered by developing countries in the last 10 years in the area of trade in goods, trade in services with regard to foreign direct investment and international transfer of technology transactions, he also gave an assessment of the adverse effects these practices had on the trade and development of developing countries. Thus, in the case of trade in goods these practices had led to worsening of terms of trade of developing countries which had had to pay excessive or predatory prices for their imports and accept low returns for their exports;

their industrialization and development process had been hampered and there had been a drain of scarce resources and foreign exchange, thus contributing to the balance-of-payments and debt crises which many developing countries faced. The export supply capability of many developing countries was also inhibited and the production, distribution, pricing and marketing of goods in the domestic markets of many developing countries were distorted, to the detriment of consumers in particular and social welfare in general. Pointing out that RBPs were more likely to emerge as a systematic distortion of the normal play of market forces in the services sector, he called for particular attention to be paid by governments and their enterprises, particularly the TNCs, to the control of RBPs in international trade in services. TRIMs in use in foreign direct investment were indeed RBP control measures. Therefore it was imperative that RBPs be prohibited in international investment transactions. International transfer of technology transactions were particularly vulnerable to the use of RBPs by sellers and purveyors of technology and the chapter of RBP control in the draft United Nations code of conduct for the transfer of technology had not been agreed to because of the unwillingness of developed countries to recognize the need for disciplining the use of RBPs by their technology champions. This, combined with the OECD trend towards exempting transactions involving intellectual property or technology transfers from the requirement of RBP control, would have major negative consequences for the technological and developmental interests of developing countries and would amount to non-implementation of the Set.

89. He stated that India had fully implemented the Set not only through enacting necessary RBP Control Legislation (Monopolies and Restrictive Trade Practices - MRTP - of 1969) but also by setting up an enforcement machinery through the Director General of Investigation and Registration and the MRTP Commission. The Commission was fully empowered to entertain, examine and pass appropriate orders regarding any complaints received by it with regard to monopolistic, restrictive and unfair trade practices. The Commission also inquired into RBPs alleged against foreign enterprises. However, having national focal points for the control of RBPs was not sufficient and without the co-operation and support of governments of countries whose enterprises were operating in India, the success of investigations in deterring enterprises from resorting to RBPs could not be ensured.

90. He stressed that the Set had not been very effective in controlling RBPs because it was basically a voluntary code without any legal sanction and there

was always the problem of enforcing a moral code. In addition, there were several "escape clauses" in the Set, which enabled enterprises to use RBPs in international trade and yet claim that they had been faithful to the Set. Though considerable progress had been registered by developing countries in adopting appropriate RBP control legislation, they faced genuine difficulties in being able to detect RBPs being used against their trade and lacked the power and capacity to check developed-country enterprises in this regard. International co-operation at governmental and enterprise level had been regrettably conspicuous by its absence. Because of the low bargaining power of developing countries even vis-à-vis developed-country enterprises, there appeared to be hesitation in using the consultation procedures provided in the Set. The Intergovernmental Group of Experts entrusted with the task of monitoring the Set did not have sufficient political weight to goad governments into complying with the Set. Most of all, the political will of governments to get their firms to observe the Set had not been much in evidence. It was for these reasons and in order to improve the record of implementation of the Set in the 1990s and to eliminate the adverse impact of RBPs on the trade and development of developing countries, that he fully supported the proposals put forward by the Group of 77 on amendment of the Set, on transparency, on consultation procedures, on technical assistance, on the upgrading of the Intergovernmental Group and on having another Review Conference in five years' time.

91. The representative of Chile recalled that in March 1990 his country had returned to democracy. The new Government had declared its firm intention to maintain the policy of liberalization of the economy which had been started in 1985, while increasing efforts in the social area. As a result of this policy, the institutions responsible for the defense of free competition had been strengthened. The Anti-monopoly Law (Decree 211 of 1973) established the Resolutive Commission as the principal body for the control of restrictive business practices, the Preventive Commission which served as a mediator, and the National Economic Tribunal (Fiscalía Nacional) with considerable investigatory powers. During the current year, Law 18.525 had enlarged the scope of application of the responsibilities of the Fiscalía Nacional to the control of price distortions with respect to imports. Moreover, the Customs Ordinance provides that the Chairman of the Fiscalía is a member of the National Customs Board, the body responsible for determining the country's customs policy. As could be seen, his country was keen on constantly

improving its legislation with the objective of promoting free competition. It was also worth mentioning that a World Bank loan had enabled the Anti-monopoly Commission to computerize its data base. All these developments were fully in line with the Set of Principles and Rules. Moreover, Chile was willing to share its experience with other countries wishing to adopt and implement competition legislation.

92. In strongly supporting the need to implement the Set, his delegation was of the opinion that in the past 10 years there had been no such effective implementation. The basis for success in this area was no doubt progress in the area of transparency, consultations among States and an effective technical assistance programme enabling all countries to adopt effective RBP legislation. His delegation hoped that the Conference would be able to adopt the necessary measures to assist the developing countries in their endeavour to adopt effective RBP control mechanisms. He also made reference to UNCTAD's regional RBP seminar for Latin America, which had taken place in Caracas on 24-28 September 1990, at which his country had the opportunity to share its experience in this field. He commended the Governments of Norway and Sweden for providing the voluntary financial resources which had enabled the UNCTAD secretariat to organize that seminar. He invited other countries to follow this example. Finally, he gave full support to the Group of 77's position that the Intergovernmental Group be upgraded into a committee on restrictive business practices, and that a Third United Nations Review Conference on Restrictive Business Practices be held in 1995.

93. The representative of Egypt said that 10 years after the adoption of the Set, restrictive business practices continued to adversely affect world trade, particularly the trade and development of developing countries. In this respect, his delegation wished to support the statement made by the spokesman for the Group of 77, as well as the draft decision submitted by Algeria at the ninth session of the Intergovernmental Group of Experts. In view of the huge economic size of major transnational corporations, he said that if TNCs were given a free-hand to resort to RBPs without the possibility of appropriate measures being taken to countervail them, they might dominate and monopolize markets, and possibly become capable of influencing the production, distribution and pricing of goods, services and technologies. Action should therefore be taken to counter the negative impact of restrictive business practices on international trade. He was further concerned at attempts to

water down the threat which RBPs posed to international trade, by labelling these practices "private operators' behaviour" which he considered was a misnomer.

94. He reiterated the importance of technical assistance in the field of RBPs and expressed regret at the limited budget allocation, spread over a five-year period, to cover RBPs' technical assistance activities. Technical assistance was one of the crucial elements in the implementation of the Set and in the control of RBPs. He urged member States, in particular developed countries, to take effective action in the support of such activity, especially for developing countries. He also called for strengthening of the Set of Principles and Rules in line with the Final Act of UNCTAD VII, paragraph 105 (18), by ensuring transparency and defining consultation procedures among States in order to remedy the adverse effects of such practices. He rejected the claim that information and consultation mechanisms, as embodied in the Set, were sufficient and therefore needed no improvement.

95. The representative of Ghana endorsed all the elements contained in the Statement made by the spokesman for the Group of 77. He added that, since 1983, Ghana had embarked on a serious economic recovery programme to salvage its then flagging economy. Several trade policy measures had been taken to help increase exports and attract foreign investments. Ghana's strong interest in the Set had further been reinforced by its current trade liberalization programme. As a country committed to healthy competition, Ghana needed to control harmful corporate practices. He reiterated Ghana's earlier request to the UNCTAD secretariat for technical assistance to facilitate its efforts in enacting appropriate domestic legislation and for training local officials to implement such a legislation effectively.

96. The representative of the European Economic Community stated that a number of important developments in the European Community's competition policy had recently taken place, showing clearly the Community's commitment to preventing and controlling restrictive business practices and to preserving a pro-competitive environment.

97. First, the new regulation on merger control had been adopted in December 1989 and entered into force in September 1990. Its basic concept was to establish a clear distinction between mergers having a Community dimension, for which the Commission was responsible, and those whose main impact was at the national level, which would remain the responsibility of national

authorities. The criteria for this distinction were based on the turnover of the companies involved, thus reflecting the overall economic and financial power of those undertakings, their level of activity within the Community and the transnational nature of the operation. The criteria for assessing mergers falling within the field of application of the Regulation were linked to the basic concept of "dominant position", which had to be assessed within the framework of an overall appraisal of competition. The Community's concern was to determine whether a merger impeded competition by creating or strengthening a dominant position. If the finding was that there was a dominant position as a result of which competition was significantly impeded, the merger might not proceed. The Community's concern had also been to provide for strict enforcement of the Regulation, which reflected its general point of view that adequate enforcement mechanisms were an essential condition for an effective implementation of competition policy. Thus, non-compliance with obligations under the Regulation might be fined with an amount of up to one tenth of the companies' aggregate turnover. The decisions taken under the merger control regulation were of course subject to control by the European Court of Justice, or the Court of First Instance which had taken up work in 1989. Judgements of the Court of First Instance were subject to appeal to the Court of Justice.

98. Secondly, substantial progress had been made in opening up certain service areas to greater competition, such as transport, telecommunications, broadcasting, energy, banking and insurance. In the transport sector, the most striking changes had occurred in air transport: in July 1990, a second package of liberalization measures had been adopted with the aim of pursuing the liberalization process in this sector following those introduced in 1987. In the telecommunications sector, the Commission had adopted two directives with a view to introducing competition in the markets of telecommunications terminal equipment and telecommunications services. With regard to audiovisual services, the Community's main aim was to ensure the openness of markets and to dismantle barriers to entry. This approach must be seen against the background of deregulation of broadcasting in member States and the new technical possibilities opened up by satellite and cable television.

99. Thirdly, the Commission's attention had also been focused on sectors such as energy, banking and insurance. Here, the Commission had studied the specific problems connected to each of those sectors and was applying competition rules more vigorously than in the past, precisely with the aim of ensuring the creation and existance of pro-competitive market structures.

100. She reiterated that the Community was firmly committed to a policy of strict control of restrictive business practices. This was not only laid down in the Treaty of Rome and demonstrated by numerous decisions imposing heavy fines on firms, but also by the fact that restrictive agreements, unless exempted, were null and void and could not be enforced before national courts. Certain forms of co-operation, in particular between small and medium-sized enterprises, might certainly merit positive consideration by way of exemption, because the dangers those arrangements presented for competition were small by comparison with the ensuing benefits in an overall evaluation. However, such forms of co-operation would not be exempted if effective competition on the market was not guaranteed.

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Chapter I

REVIEW OF ALL ASPECTS OF THE SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES:

(a) REVIEW OF 10 YEARS OF APPLICATION AND IMPLEMENTATION OF THE SET;

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(Agenda item 8)

[Continued]

101. The spokesman for Group B (Netherlands), speaking on item 8 (b), stated that during the last 10 years Group B had often recognized the importance of both bilateral and multilateral technical assistance as an important way to secure the implementation of the Set and to maximize its utility. In the statement on technical assistance at the ninth session of the Intergovernmental Group, Group B had emphasized the increasing importance of such efforts, noted that many members of the Group had improved their efforts to provide such assistance, and reiterated that Group B was willing to reinforce its activity in meeting requests from individual countries, subject to the availability of resources. In the year since the ninth session of the Intergovernmental Group, the increased interest of developing and Eastern European countries in market liberalization had led to more requests for technical assistance. Representatives of many countries had expressed their needs for such assistance earlier in this Conference. The members of Group B were committed to providing appropriate technical assistance on both a bilateral and multilateral basis, subject to the availability of resources.

102. It was an obvious but important point that different countries would require different types of technical assistance with respect to RBP control. Technical assistance programmes must be flexible and readily adaptable to the needs of particular recipients. Group B's experience had been that multilateral assistance was especially effective in introducing large groups of officials from several countries to basic RBP control principles; the UNCTAD secretariat's work in organizing seminars for officials in developing countries in different regions of the world had been of significant value in this regard. In the same way, Group B's experience was that bilateral

assistance had been very effective in providing in-depth technical co-operation between RBP control authorities, particularly because bilateral assistance could be readily tailored to specific needs. In this context, Group B wished to note that "bilateral" assistance could include assistance from one of its members to two or more developing countries and thus was in a sense "multilateral" as well.

103. Just as there were several types of technical assistance, there were also several sources of funds for technical assistance. Bilateral assistance normally was funded by the countries involved. Multilateral assistance might be provided by UNCTAD, either through its own resources or through special sources such as the RBP Trust Fund, which had been financed in the past by France, Norway and Sweden. Other funding sources, such as UNDP, might also be available. He also pointed out that OECD had provided certain technical assistance to developing and Eastern European countries, using both OECD's own resources and those of its member States.

104. Another - and so far underutilized - source of technical assistance was the informal consultation process at the Intergovernmental Group sessions provided for in Section G.3 (a) of the Set. Such informal consultations had served in the past to identify problems that developing countries, in particular, faced in RBP control, had provided a forum for discussions of possible solutions to such problems and had served to establish important contacts between experts of developed and developing countries. As the statements of Poland and the Republic of Korea at this Conference had illustrated, these sessions offered a unique opportunity for newly-industrialized and Eastern European countries to discuss their experiences in adopting and enforcing RBP control legislation with other countries facing similar situations. Indeed, these informal consultations offered an especially efficient means of sharing information among a wide range of countries, particularly when experts from both developed and developing countries participated.

105. He also commented on the secretariat's report on technical assistance and its proposals for a framework for such assistance, contained in TD/RBP/CONF.3/4. This report provided much useful information concerning the large amount of multilateral and bilateral technical assistance that UNCTAD and Group B countries had provided during the last 10 years. He noted, however, that a good deal of bilateral assistance that Group B countries had provided recently had not been included in the report, in many cases because

the assistance post-dated the preparation of the report. While the secretariat's report provided much useful information on the assistance that had already been given, it was less useful in considering what course future assistance should take. For example, while paragraph 66 of the report noted that the secretariat had received requests for technical assistance "of one form or another" from 25 countries, the report did not specify the nature of individual requests. It was thus difficult to evaluate the needs for assistance demonstrated by the requests.

106. The agreed conclusions adopted at the ninth session of the Intergovernmental Group, in paragraph 5 (c) (i), explicitly required the secretariat to provide information on the contribution of technical assistance already carried out to the control of RBPs so that the Conference could make an accurate assessment of technical assistance requirements. However, the secretariat's report admitted, in paragraph 6, that it provided only a "preliminary assessment" of the contribution of such technical assistance. Group B would request that the secretariat provide a more complete assessment of the contribution of individual technical assistance programmes. Group B also would have found it valuable had the secretariat's report discussed the views of countries that had received technical assistance about the relative usefulness of particular types of assistance.

107. Group B believed that the secretariat's proposals for a framework for technical assistance in paragraphs 71 and 72 of TD/RBP/CONF.3/4 contained useful elements. However, the secretariat's proposals were very ambitious and gave every appearance of being extremely expensive. They did not, however, provide any basis for setting priorities or identifying benefits among their different aspects or provide even a rough idea of the direct and indirect expenses involved. The proposals also did not discuss how these programmes could be carried out with UNCTAD's limited personnel resources. Accordingly, before Group B could meaningfully evaluate the secretariat's proposed framework, the secretariat must suggest priorities and provide detailed cost estimates for the individual elements of the programme and for the programme as a whole. In the meantime, the secretariat should continue to provide technical assistance within the existing resources of the United Nations system, including reallocation of such resources. It could also use any voluntary contributions that member States might provide to individual projects that were given priority.

108. Finally, he emphasized that multilateral technical assistance had an important role to play in helping developing and Eastern European countries to meet their RBP control goals. Given its limited resources, UNCTAD's first priority should continue to be the organization of regional seminars. Group B's views on this point were based on its members' firm belief that bilateral assistance should and would continue to play a significant role in developing effective RBP régimes in accordance with the Set.

109. Turning to the question of information and consultation procedures, he stated that Group B considered that the existing provisions of the Set (C.3, C.4, E.9 and F.4) provided an adequate framework of promoting voluntary exchanges of information and consultations between member States on competition policy issues, provided that the basic conditions - the existence of a national competition law and effective enforcement machinery - were fulfilled to enable such exchanges and consultations to take place. Specific information was frequently useful when investigating or prosecuting certain RBPs, including those that involved other countries. Information on different countries' experience with the operation and enforcement of their national laws was equally important. Thus requests for information addressed to foreign authorities might facilitate enforcement of national legislation. In this connection, Group B welcomed the list of authorities in member States which the secretariat had compiled for purposes of informing States of the names, addresses, telephone and telefax numbers of the authorities through which such requests should be channelled, and he hoped that the list could be expanded to include more countries and be regularly updated.

110. He stressed the importance of the voluntary nature of the procedure for requesting information and made a distinction between requests for information on general matters of competition law and policy and requests for information on particular cases. While States could willingly accede to requests for information which was publicly available and which it was not unduly burdensome to provide, much of the information acquired in the course of investigations or proceedings in individual cases was confidential and divulgence of such information was prohibited by law. States therefore could not respond to the latter category of requests for information.

111. There were also different types of request for information which required different treatment. For example, requests for information concerning the content of another country's competiton law did not require the use of a form or checklist to facilitate the formulation of a request. On the other hand,

there were more complex requests, for instance seeking information that was useful for the investigation of a particular RBP case. In this instance Group B considered that it might be helpful for countries requesting information for purposes of enforcing their national competition laws to have access to a checklist of items which could be included in a request. The request should be framed in terms that were as specific as possible and be limited to what was suggested by the secretariat in its report (TD/RBP/CONF.3/3): a description of the RBP case in question; the enterprise involved; the legal basis for instituting proceedings; the reasons for requesting the information, and the intended use of the information. In the interests of obtaining prompt responses, such requests should be made directly to the competent authority of the country in question, as noted above.

112. Finally, on the question of requests and exchanges of information, Group B saw no harm in keeping the secretariat informed of developments, provided that the provision of such information was voluntary, not unduly burdensome on either the secretariat or the countries involved, and consistent with national law and policy.

113. With regard to the consultation procedures, he emphasized that, although no consultations had been requested so far by member States under Section F.4 of the Set, such consultations might occur as more and more countries adopted and applied competition laws. The existing provisions of the Set provided a good basis for consultations and did not require change. He urged States to avail themselves of these provisions in appropriate cases of control of RBPs. Limitations of jurisdiction and sovereignty as well as the financial implementations needed, however, to be taken into account when consultations were requested. Group B saw some merit in the idea that a voluntary checklist of items could also be developed to facilitate requests for consultations. Such a checklist could include the reasons for the request for consultations, the specific details of the behaviour or activity about which the consultation was requested, as well as some of the elements mentioned in connection with the requests for information.

114. He added that his Group did not consider it useful to make provision for a conciliation procedure, including panels or working parties, for use in the event that consultations did not give rise to a mutually satisfactory solution. Until more experience was acquired with the operation of consultations between member States under the Set, it would seem premature to envisage conciliation. He pointed out that although this procedure was

provided for under the OECD Council recommendation, no cases of conciliation had occurred since the procedure had been introduced in 1973.

115. His Group could not accept the secretariat's proposal (TD/RBP/CONF.3/3, paras. 16, 17, 30 and 72) that member States should reply annually to a detailed questionnaire concerning requests for information and consultation. This proposal confused the separate concepts of information exchange and consultations and touched closely on sensitive relations between States as well as on law enforcement concerns. Moreover, the type of information requested by the proposal would be very difficult for States to compile and for the secretariat to process and did not seem to be of much practical value. The Group B countries would, however, continue to submit annual reports to the UNCTAD secretariat on developments in their national competition policies, in accordance with Section F.2 of the Set, and would appreciate the drafting of a format to induce more countries to submit such reports. His Group believed that the proposals contained in paragraphs 37 and 38 of the secretariat report would unduly complicate the submission of such reports and would not achieve the results expected.

116. The representative of Bulgaria said that the review of 10 years of application of the Set had proved that the Set was a valuable instrument for the creation of a more competitive environment in international trade and the prevention of trade-distorting measures. Adopted on a multilaterally agreed basis, the Set was a well-balanced document which did not need to be revised. Fuller implementation of the Set could have been a further impetus for enacting national RBP legislation.

117. He supported efforts for increasing transparency and improving the process of consultations, as stated in TD/RBP/CONF.3/3, and welcomed the development of an information system as indicated in TD/B/RBP/69. He was further of the opinion that the provisions of Section E.9 of the Set had not had the expected effect and suggested the diffusion of RBP-related information through the establishment of a centralized information system in UNCTAD. However, this system would require the adoption of national RBP legislation by all countries and that all countries would provide adequate answers to questions in the standard information request form.

118. It was obvious that the provisions contained in the Set regarding consultations had not been fully implemented and he supported the proposal made by the UNCTAD secretariat for creating a registry in each country as well as a central registry in UNCTAD which would be opened for consultation by any

State and thus would increase transparency. He added that his delegation was of the opinion that the existing institutional framework in UNCTAD to deal with the problems of RBPs was sufficient. Nevertheless, he would not oppose the upgrading of the Intergovernmental Group into a committee. He also supported the idea of convening a new Conference in 1995.

119. Bulgaria was undergoing a comprehensive reform of the economic system aiming at the establishment of an open-market economy. Action for adoption of RBP legislation was under way in the Grand National Assembly. The draft law on competition under discussion contained provisions which were directly linked with the provisions of the Set. Thus under consideration was the creation of a commission for the protection of competition, as well as measures for limiting monopoly practices by companies, such as agreements on fixing prices, market or customer allocation arrangements, allocation by quota as to sales and production, concerted refusal of supplies and other abuses of dominant position. It was also stated in the draft law that the authorities would create appropriate conditions for fostering competition among firms and for the prevention of monopolistic activities and unfair competition at home and on the international markets. Furthermore, the National Assembly would be discussing a draft law on the privatization of State property, which was to be carried out transparently and in parallel with measures for demonopolizing business activities and promoting competition.

120. The ever-increasing need for consultations and technical assistance, both at bilateral and multilateral levels, in the field of restrictive business practices was of particular relevance to his country. Therefore, his country supported the proposals of the secretariat to establish an international network of RBP control experts to provide technical assistance, advisory and training missions and encouraged the improvement of existing budgetary possibilities and voluntary contributions.

121. The representative of Hungary, referring to the review of the application and implementation of the Set, considered that the Set had proved to be well-balanced and had served as a good basis for promoting the control of RBPs in international trade. The absolute elimination of RBPs was a very long process and it would probably never be fully achieved. He was convinced that controlling RBPs could not be achieved by setting up international standards or creating a framework for international actions. Fighting and controlling abusive practices such as RBPs could be conceived only in a context of the free competition of a market economy. However, the most important step

towards the fulfilment of the objectives of the Set was the implementation of national legislation. Since the General Assembly of the United Nations had adopted the Set 10 years ago, a rapidly increasing number of countries including Hungary, had adopted national RBP control legislation.

122. Citing some elements of the on-going process of creating a market economy, he said that the Hungarian Act of 1988 on Economic Association defined the forms, structure and scope of the associations, and the Act on Foreign Investment gave legal guarantees and preferences such as MFN treatment, national treatment, prompt and adequate compensation, exchange transfer, tax allowances for inflow of foreign capital; the new Constitution declared the equality of all forms of property; the Government had abolished the foreign-trade monopoly of the State and had passed a new Act on Unfair Economic Activity. In the formulation of the new rules, the legislation had had to take into account the enumeration of all forms of behaviour to prevent any restriction of competition or any abuse of dominant economic position; fusions had to be controlled; and sanctions had to be elaborated accordingly. The fusion of economic organizations was made conditional on licensing by the Office responsible for the supervision of competition. The possible sanctions would be more comprehensive than formerly and the fines imposed could be twice as high as the financial benefit attained unlawfully, or as the damage caused, but it must have exceeded it by a minimum of 40 per cent. The Parliament had accepted this Act at the end of November 1990.

123. Finally, he stated that at the present time his Government was of the opinion that the Set should not been changed.

124. The representative of Bolivia reiterated his full support for the views expressed in the Group of 77's statement. He subscribed to the commitment to the Set and to the need for improving and further developing that instrument, as during the 10 years since its adoption it had not been adequately implemented. Developing countries had experienced a dramatic deterioration of their position in the world economy. This was the case in terms of the widening technological gap, the debt situation and the state of depression of their economies as a result of very stringent adjustment policies they had been obliged to adopt.

125. The unfair effect of RBPs on these countries' trade and development had further contributed to this disastrous outcome of the past decade. If the 1990s were to be a decade of development, the Review Conference would have to reiterate its determination to control RBPs. Like other developing countries,

his country had undertaken important reforms, at very high costs in social terms, to adopt market-oriented policies and further liberalize open markets, with the objective of enabling the enterprises of his country to become competitive on a fair basis with those of the developed countries. However, without an effective implementation of the principles and rules embodied in the Set, this objective would prove to be impossible to attain. His delegation felt the concerns of the Group of 77 about the inadequate application of the Set in the 10 years since adoption were fully justified. In his delegation's opinion, the Set represented a minimum. There was an implicit need to improve it. As indicated by the representative of India in her statement, the results of the Review Conference would send a clear political message to the negotiations under way in GATT, as it was necessary for any rules regarding services, direct foreign investment and technology transfer to contain elements for the control of RBPs.

126. Trade liberalization needed to be closely linked to the establishment of RBP control if one wished to prevent RBPs from becoming the main instrument of protection. What was needed in this respect was, in particular, the establishment of mechanisms to improve transparency. Consultation procedures were also to be improved if they were to be properly used. It was also essential that technical assistance for developing countries be strengthened. Moreover, his delegation supported the view that a special committee on RBPs would be the appropriate level for dealing with this subject at UNCTAD, and that a Review Conference should be held in 1995.

127. The representative of the Philippines stated that the preservation of the basic democratic principles of free competition in the market-place embedded in the Set should serve as a guide for the Conference.

128. He recalled that the Philippines had passed laws on monopolies and combinations in restraint of trade which penalized cornering of the market or restraining free competition in the market.

129. Seven years after the adoption of the Set, the new constitution had been ratified in 1987, containing constitutional mandates on trade practices and competition. In order to implement these constitutional mandates, the Senate had introduced in 1989 Bill No. 996. An important feature of the bill was the proposal to establish an independent Anti-Trust Commission to oversee the implementation of the Act once it was enacted. The proposed body would be similar to the office of the Ombudsman. The bill also proposed the creation of an Ombudsman on trade, commerce and industry. Many features of the bill

had been adapted from the various Anti-Trust Laws of the United States and from the various court decisions that interpreted them. Some features of the bill had also been adapted from the European models or experience. The proposed Law was also inspired by the Set on RBPs and by the Samuelsonian principle: "the whole logic of private enterprise rests on the fundamental assumption of active competition in free markets. If such a system is to be preserved, it is essential that competition be kept active and markets free". Initial difficulties in implementing the Law could be foreseen and therefore technical assistance for officials charged with the enforcement of the Law would be appreciated, especially from UNCTAD.

130. He pointed out that developed countries had also experienced difficulties in implementing their relevant laws on the control of RBPs. The slow progress in the implementation of the Set on RBPs by the developing countries should thus not justify a failure on the part of the Conference to reach constructive results. If developed market economies found it difficult to control restrictive business practices, greater understanding and support should be given to developing market economies in this regard. In this connection, in particular concerning further development and improvement of the Set on RBPs, his delegation endorsed entirely the proposals of the Group of 77 mentioned in the opening statement of the Group. Due consideration should be given to the amendments of the Set as proposed by the Group of 77 to further reaffirm the commitment of States to the Set, which was after all recommendatory and not binding.

131. On the issues of transparency and consultation procedures, it should be stressed that their improvements would spare the developing countries from the same problems already encountered and remedied by developed countries in the control of RBPs. With regard to upgrading the Intergovernmental Group to a special UNCTAD committee, such a step would demonstrate the seriousness States accorded to the implementation of the principles and rules of the Set. He added that the importance of technical assistance could not be over emphasized. Priority consideration should be given to it by the Conference along the lines proposed by the Group of 77. The Philippines also strongly supported the convening of the 1995 Review Conference because of the principle that review was an integral and indispensable part of the process of controlling RBPs.

132. The spokesman for the Group of 77 (Philippines), introducing the draft resolution on agenda item 8 which his delegation had submitted on behalf of

the States members of the Group of 77 (TD/RBP/CONF.3/L.2), observed that, a decade after the adoption of the Set, RBPs continued to impede and negate the realization of benefits that ought to accrue to developing countries as a result of the liberalization of tariff and non-tariff barriers in world trade. Although by their very nature RBPs were subtle and secret, developing countries had perceived and continued to perceive that far from being eliminated, RBPs of developed country enterprises continued and had even increased their adverse effects on international trade, especially on the trade and development of developing countries. The role played by developed country TNCs as purchasers, manufacturers, suppliers and sellers of goods and services in international trade was such that they, as a matter of global corporate strategy, acquired a dominant position of market power in almost all developing country markets and in international trade transactions. The Group of 77 was unaware of any major positive change with respect to the existence of import and export cartels in the developed market-economy countries. Further, although countries had adopted legislation on mergers and the EEC has passed a regulation intended to control extremely large mergers, it still remained to be seen whether the trend towards concentration was being impeded. In fact the Group of 77 was of the opinion that the contrary was true. What was being witnessed was the globalization of markets and the creation of world-wide monopolies through mergers, take-overs and strategic alliances between large firms, putting developing country firms in a position of further disadvantage and marginalization.

133. This situation distorted not only trade in goods, but also trade in services. While the Set covered both goods and services, the present context of international trade was very different from what it had been 10 years previously. Services issues represented a very sensitive area for developing countries, as the use of RBPs in services had an even greater trade-distorting effect and deeper repercussions on their trade and economic development than RBPs in the area of goods.

134. Foreign direct investment was another important area where RBPs were employed. For example, the provision of capital often gave rise to tie-ins. Funds were provided but were earmarked in advance for specific firms, or for firms from the capital-supplying country. On the other hand, government investment regulations presently under negotiation in GATT in the context of TRIMs were measures of Governments aimed mainly at countering market allocation, price-fixing, restraints on exports and other RBPs by investors.

Hence, in the absence of binding international rules and principles on RBPs, States were obliged to defend their interests through this type of measure.

135. Further, the use of RBPs in technology transfer transactions, such as licensing contracts, was a phenomenon of increasing gravity. Not only was it one of the main stumbling blocks in the negotiations on a code of conduct on technology transfer, but recent developments relating to the treatment of intellectual property rights, and indeed the demands of developed countries in the TRIPs negotiations in the Uruguay Round, went in the direction of increased freedom for the owners of technology to employ RBPs against the recipients of technology. This trend would consolidate the monopolistic appropriation of vital technologies by developed country firms, thus restricting developing country access to technology.

136. As a consequence, more now than 10 years ago, developing countries were suffering from the adverse effects of RBPs on their trade and economic development. On the one hand, RBPs hampered or obstructed their access to foreign markets as a result of domestic cartels, import cartels and vertical restraints by dominant enterprises in domestic and international markets; on the other, prices and conditions of imports of goods and services in developing countries were artificially loaded by export cartels, international cartels, or important vertical restraints by dominant firms, such as tied sales, refusals to supply essential goods or services, predatory and other practices, which took away an ever-growing share of developing countries' scarce resources and foreign exchange reserves. All these had contributed in no small measure to the already difficult position of most developing countries regarding resources, foreign debt, terms of trade, and balance of payments. Industrialization and the building-up of the export supply capacity of developing countries had also been hampered or impeded.

137. For the above reasons, the Group of 77 wished to strengthen the relevant provisions of the Set of Principles and Rules, as proposed in the draft resolution submitted during the ninth session of the Intergovernmental Group of Experts. These proposals were reproduced in draft resolution TD/RBP/CONF.3/L.2, which was aimed at amending and strengthening the Set, as well as improving its application with respect to the important issues of transparency, consultation procedures, technical assistance, upgrading of the Intergovernmental Group into a Committee, and a third review conference in 1995.

138. More specifically, on objective No. 2 in Section A of the Set, the proposed amendment was intended to put development dimensions at the forefront of the objectives of the Set.

139. In Section B, paragraph 1, the term "unduly" should be deleted. This term was used in different parts of the Set and constituted a major loophole in the implementation of the Set. The term should also be deleted in paragraphs D.3, D.4 and E.2 of the Set.

140. Concerning paragraph B.9, it was proposed to clarify the meaning of the provision. There had been a proliferation of the so-called "grey area" trade restraints: voluntary export restraints (VERs) and orderly marketing arrangements (OMAs). The position of the developed market-economy countries had been that measures of trade policy, including VERs and OMAs, were outside the ambit of the Set by virtue of Section B.9. However, the Group of 77 regarded this as a violation of the letter and spirit of the Set. VERs and OMAs, which were caused by unilateral government action or by tacit understandings between Governments, should surely not be exempted under this provision of the Set, otherwise the Set could not be used against international RBPs. It was therefore important to make it clear that Section B.9 applied only to formal intergovernmental agreements.

141. On Section C, the proposed amendment to paragraph 1 sought to establish more direct responsibility by Governments for taking appropriate action. The amendment to paragraph 2 drew attention to the fact that what was needed was not so much collaboration among developed countries, which was already taking place at OECD, but above all collaboration with the developing countries. On paragraph 7, the aim was for States, particularly developed countries, in their control of RBPs, to take into account the needs of the developing countries and ensure that their own enterprises did not engage in RBPs adversely affecting the trade and development of the developing countries.

142. In Section D, it was proposed to strengthen the Set by repealing the exemption contained in paragraph D.3 for enterprises that formed part of the same economic entity, and to delete the footnote to paragraph D.4 concerning acts in abuse of a dominant position; this escape clause was being used by enterprises to circumvent the Set.

143. In Section E.6, the amendment focused on information to be obtained from enterprises on RBPs which adversely affected developing countries in particular.

144. With regard to the international institutional machinery, as dealt with in Section G of the Set, in the 10 years since the adoption of the Set, the functions of the Intergovernmental Group of Experts had assumed greater importance as Governments had made competition policy a priority. The functions entrusted to the Intergovernmental Group of Experts would therefore be dealt with more appropriately by an UNCTAD committee with a mandate to make recommendations to States. For this reason, the Intergovernmental Group of Experts should be upgraded to become a Committee on Restrictive Business Practices. He wished to emphasize once again that the level of the institutional machinery was a reflection of the degree of importance attached to the Set. The intention of the proposal was not to revise the functions of the institutional machinery set up in Section G of the Set. It was merely a reflection of his Group's belief that the functions laid down in Section G (ii) of the Set corresponded to those of a Committee. Moreover, the existing machinery, namely the Intergovernmental Group, had been unable to take up important policy measures. In the absence of a legally binding Set, political commitment should be stressed and reinforced.

145. With regard to the issues of transparency and consultation procedures, UNCTAD VII had agreed, as provided in paragraph 105 (18) of the Final Act, that the ongoing work in UNCTAD should continue and be strengthened, particularly with a view to ensuring transparency and defining consultation procedures. The Group of 77 had put forward proposals to improve the application of the relevant provisions of the Set of Principles and Rules in this respect. Some of these proposals were aimed only at strengthening existing mechanisms at UNCTAD, while others were based largely on existing provisions in the OECD Revised Recommendation of the Council contained in document TD/RBP/CONF.3/3, annex III.

146. With regard to the issues of technical assistance and advisory and training programmes on RBPs, particularly for developing countries, as dealt with in Section F.6 of the Set, many developing countries were striving to adopt national RBP legislation, in compliance with provision E.1 of the Set. For this reason, the Group of 77 attached considerable importance to technical assistance, which was really the foundation for the application and implementation of the Set. The plan of action proposed in TD/RBP/CONF.3/4, paragraph 71 was appropriate for the needs expressed by the developing countries. He recalled that the Group of 77 had requested the costing of such assistance at the ninth session of the Intergovernmental Group of Experts but

that there had been an objection to that request. Nevertheless, his Group felt that targets could easily be set and progress achieved in this field, given good will and commitment. Further, the Group of 77 wished to thank the States that had provided financial contributions to the UNCTAD Trust Fund and appealed to all States, in particular the developed countries, to increase their voluntary financial contributions and to provide their valuable expertise for technical assistance. He also urged the international organizations and financing programmes, in particular UNDP, to provide the necessary resources for the activities involved. He emphasized the importance of multilateral assistance which was the most cost-effective way of meeting the urgent and vast needs of developing countries in this area.

147. The Group of 77 proposal was to strengthen and improve technical assistance, as well as advisory and training programmes, by adopting and implementing a plan of action at the national, regional and subregional levels, as suggested in document TD/RBP/CONF.3/4. It was also hoped that the European Commission, which had been enabled to participate fully in the Intergovernmental Group on a non-voting basis, would play an increasingly active role in the technical assistance programmes.

148. Finally, his Group believed that RBP control should be a continuous process, and it was proposed that a third United Nations conference be convened in 1995 to review all aspects of the Set.

149. The spokesman for Group B (Netherlands) noted that the draft resolution just submitted by the Group of 77 contained proposals for amending the Set. He recalled that it had been and remained the firm conviction of his Group that the Set, in its present form, was an adequate instrument for the control of RBPs. Consequently, Group B did not intend to take amendments into consideration during the Review Conference. He reserved the position of Group B with respect to the other items contained in the draft resolution.

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